IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 21ST JULY 2006 / 30TH ASHADHA,1928

TRC.No. 393 of 2002()

TA.178/2002 of S.T.A.T.ADDL.BENCH,ERNAKULAM DT.28.10.2002
.....

PETITIONER: ASSESSEE/ APPELLANT

K.PEETHAMBARA MENON, PROPRIETOR,
KEY PEE DYES AND CHEMICALS, DOORAISWAMY IYER ROAD,
KOCHI-35.

BY ADV. SRI.E.P.GOVINDAN
SRI.JOSE DAVIS

RESPONDENTS: REVENUE/RESPONDENT

STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, TAX DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM

BY GOVERNMENT PLEADER SRI.V.V.ASOKAN

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 21/07/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.6268/2002 IN TRC NO.393/2002

DISMISSED

21.7.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

/TRUE COPY/

tss

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

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T.R.C. No.393 of 2002

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Dated this the 21st day of July, 2006.

JUDGMENT

Ramachandran Nair, J.

The petitioner is challenging the order of the Tribunal sustaining penalty under Section 29A(4) of the KGST Act in respect of transport of two consignments of chemicals in single truck without being accompanied by serially machine numbered invoices as prescribed under Rule 32(12) of the KGST Rules. We have extensively heard counsel for the petitioner and the Special Government Pleader. Even though petitioner's case is that numbering of invoices in ink is only a clerical mistake by the staff, we are not convinced about it because the officer who passed the adjudication order noticed that all the other invoices which are for small amounts are serially machine numbered. In the circumstances, presumption of unaccounted sale through invoices the numbers of which are written in ink instead of serially machine numbering is perfectly in order. We do not find any ground to interfere with the factual findings based on which penalty is levied by the original authority and sustained by the Tribunal in second appeal. However, having regard to the fact that the petitioner has closed business several years back and is in extreme financial difficulties, we reduce the penalty to equal the amount

of tax sought to be evaded in respect of the consignments.

The T.R.C. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

K.M.JOSEPH
Judge

pms

C.N.RAMACHANDRAN NAIR &
K.M.JOSEH, JJ.

T.R.C. No.393 of 2002

JUDGMENT

Dated 21.7.2006